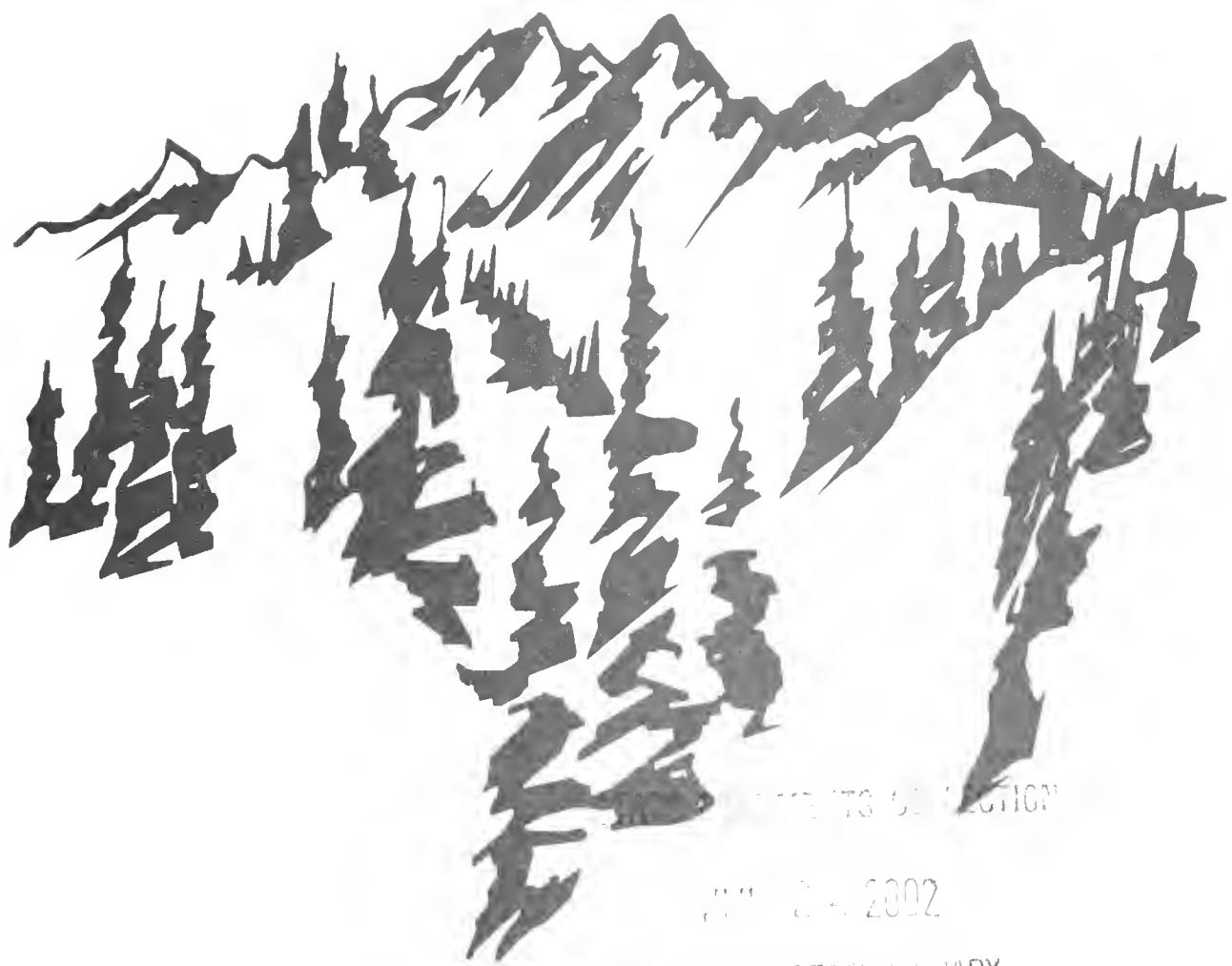


S
307.12
C18mgp
2000

Montana's Growth Policy Resource Book

Montana Department of Commerce
Local Government Assistance Division
Community Technical Assistance Program

June 2000



MONTANA STATE LIBRARY
1015 E. 6th AVE.
HELENA, MONTANA 59620

MONTANA STATE LIBRARY



3 0864 1001 5360 3

MONTANA'S GROWTH POLICY RESOURCE BOOK

Prepared and Published by:
Montana Department of Commerce
Local Government Assistance Division
Community Technical Assistance Program

Helena, Montana

June, 2000

The price for this publication is intended only to cover the actual cost to the state to print the publication.

Upon request, the information provided in this publication will be made available in an alternative accessible format.

Preface

Abstract

This publication, **Montana's Growth Policy Resource Book**, is intended to aid people involved with county and municipal planning in Montana. This publication describes and interprets the requirements of 76-1-601, MCA, Montana's Growth Policy law enacted by the 1999 legislature. This book is a service of the Montana Department of Commerce Community Technical Assistance Program.

Project Participants

Peter Blouke, Ph.D., Director
Montana Department of Commerce

Newell Anderson, Administrator
Local Government Assistance Division

Dave Cole, Chief
Community Development Bureau

Gavin Anderson, Program Manager
Community Technical Assistance Program

Kelly Shields, Planner IV
Community Technical Assistance Program

Richard M. Weddle, Staff Attorney
Community Technical Assistance Program

Mary Vandenbosch, Resource Policy Analyst
Legislative Services Division

Contents

Forward.....	i
Planning Defined.....	1
Growth Policy Overview.....	1
Growth Policy Requirements.....	2
Maps.....	2
Land Uses.....	3
Suggested Land Use Classification System.....	4
Transportation.....	5
Population.....	6
Housing Needs.....	7
Economic Conditions.....	8
Local Services.....	9
Public Facilities.....	11
Natural Resources.....	12
Other Characteristics.....	14
Projected Trends.....	14
Summary.....	15
Other Growth Policy Requirements.....	15
Implementation Tools.....	15
Strategy for Public Infrastructure.....	15
Growth Policy Implementation Strategy.....	16
Statement of Interjurisdictional Cooperation.....	16
Subdivision Review Statement.....	16
Public Hearing Statement.....	17
Other Growth Policy Options.....	17
Goals and Objectives; Development of the Growth Policy.....	17
Public Participation.....	17
Goals and Objectives.....	18
Adoption of the Growth Policy.....	19
Implementation of the Growth Policy.....	19
General.....	19
Relationship of Growth Policy to Land Use Regulations.....	19
Subdivision Regulations.....	20
Zoning Regulations.....	21
Relationship of the Growth Policy to Zoning Regulations.....	22
Board of Adjustment.....	22
Interim Zoning Regulations.....	22

Protest of County Zoning.....	23
Extraterritorial Provisions.....	23
Development Permit Regulations.....	23
1. Development Standards.....	23
2. Point Systems.....	24
Floodplain Regulations.....	25
Lake Shore Regulations.....	25
Conservation Easements.....	25
Capital Improvements Plan and Capital Budget.....	26
Special Plans.....	27
Evaluation.....	27
Appendix A: Growth Policy Statute (76-1-601, MCA).....	29
Appendix B: List of Publications Available from the Montana Department of Commerce Community Technical Assistance Program.....	31
Appendix C: Internet Sites Which Might Be Useful.....	33
Appendix D: Possible Definitions For Terms Used In 76-3-608(3)(a), MCA.....	34

FORWARD

Montana will enter the next century with quite a few more people than were living in the state at the turn of the last century. There were approximately 240,000 people living in Montana in 1900. Depending on who you ask, the state is expected to have somewhere between 896,000 and 937,000 residents in the year 2000.

Some areas of Montana have seen significant increases in population during the 1990's. While Montana's population grew by about 10 percent between 1990 and 1998, several counties saw increases of 20 percent or more during this time period:

- ▶ Ravalli County (41%)
- ▶ Jefferson County (27%)
- ▶ Broadwater County (25%)
- ▶ Gallatin County (24%)
- ▶ Stillwater County (24%)
- ▶ Lake County (22%)
- ▶ Flathead County (21%)

At the same time, some Montana counties lost people during the 1990's. The most rapidly shrinking counties are all located in eastern Montana:

- ▶ McCone County (-14%)
- ▶ Powder River County (-13%)
- ▶ Garfield County (-12%)
- ▶ Daniels County (-12%)

Whether growing or shrinking, some Montana communities are designing a vision for their future and developing growth policies under a new state law.

NEW LAW PROVIDES GUIDANCE FOR LOCAL GROWTH POLICIES

The 1999 Montana Legislature renovated an old tool for community development and land use planning -- the comprehensive plan or master plan. Senate Bill (SB) 97 was introduced by the request of the Environmental Quality Council (EQC) as the result of an interim study of growth issues. The bill was approved by the Legislature (Chapter 582, Laws of 1999) and became law on October 1, 1999.

Local governments (counties, cities and towns) have been authorized to adopt master plans for many years. Under the new law, master plans or comprehensive plans are

now called "growth policies", and they must meet minimum requirements. Development of growth policies continues to be optional.

The new requirements for a growth policy are set forth in section 76-1-601 of the Montana Code Annotated (MCA). Some of the key elements that must be included in a growth policy are highlighted below:

- ▶ a strategy for development, maintenance, and replacement of public infrastructure;
- ▶ an implementation strategy;
- ▶ a list of conditions that will trigger a revision of the growth policy;
- ▶ a timetable for reviewing the growth policy at least once every 5 years and revising the policy if necessary;
- ▶ an explanation of how the governing body will coordinate and cooperate with other jurisdictions (i.e., cities with surrounding counties and vice versa); and
- ▶ an explanation of how the governing body will evaluate and make decisions regarding proposed subdivisions with respect to the "public interest" criteria established in section 76-3-608 (3)(a), MCA. The public interest criteria are agriculture, agricultural water user facilities, local services, the natural environment, wildlife and wildlife habitat, and public health and safety.

The new law provides some additional options for local governments. The law specifically authorizes the adoption of neighborhood plans as long as a growth policy has been adopted for the entire jurisdictional area and the neighborhood plan is consistent with the growth policy.

Furthermore, local governments may choose to cover some of the issues that are now dealt with during subdivision review in the growth policy instead. The growth policy may address the public interest criteria and identify specific geographic areas where review of these criteria will be waived. If the governing body adopts zoning regulations that address the public interest criteria for these designated areas, it may skip review of these criteria during the subdivision review process.

The EQC recommended this change in order to provide an incentive for local governments to deal with these issues "up front" in a community policy development process rather than one subdivision at a time. One person who commented during the EQC study stated the problem succinctly:

Many communities find that their land use policies are written after the

fact as a consequence of subdivision review, rather than in advance through a thoughtful process of community planning.

GROWTH POLICES ARE NOT JUST FOR GROWING COMMUNITIES

Some communities that are shrinking or growing slowly are also developing or planning to develop "growth policies" under the new law. The term "growth policy" may not seem appropriate in these areas; some communities choose to refer to the document as a comprehensive plan.

A statement in the draft Great Falls City-County Comprehensive Plan illustrates why any community -- growing or shrinking -- may choose to plan:

Planning allows the community to envision its future and proactively work to achieve it instead of just reacting and moving from one short-range, quick-fix solution to another as events occur.

A review of a sampling of the goals and principles contained in some of the current draft growth policies that are under consideration in various Montana communities may illustrate why this tool could be useful for any community:

- ▶ Encourage a healthy, diversified, and sustainable economy by supporting existing businesses, making prudent infrastructure investments, and attracting new businesses that are compatible with and complementary to the community.
- ▶ Control and eradicate noxious weeds.
- ▶ Protect property rights and values.
- ▶ Encourage development in areas without environmental constraints.
- ▶ Encourage the continuation of viable farming and ranching opportunities.
- ▶ Improve maintenance of county roads.
- ▶ Protect air quality.
- ▶ Increase emphasis on tourism development.
- ▶ Ensure adequate fire and law enforcement protection.

WHERE TO GET MORE INFORMATION

The Community Technical Assistance Program (CTAP), administered by the Montana Department of Commerce, provides technical assistance for community planning, development, and finance. The program provides publications, videotapes, and regional workshops on topics including planning, subdivision and surveying regulations and procedures, zoning, grants, and financing. You can call CTAP at (406)444-3757.

CTAP sponsors the "Planning Montana, A Town Meeting" television series. Montanans involved with community development topics explore issues and answer questions from the public on the programs which are broadcasted by the KUSM-TV public television station.

The EQC's report "Planning for Growth in Montana" is available from the EQC office (444-3742). The EQC's Land Use/Environmental Trends Subcommittee is monitoring implementation of SB 97 and is evaluating the need for funding to develop growth policies. For more information, please contact Mary Vandenbosch at 444-5367 or by e-mail at <mvandenbosch@state.mt.us>.

Mary Vandenbosch, Resource Policy Analyst
Legislative Services Division

PLANNING DEFINED

“Planning” is a process or activity used by individuals and groups to manage change. Planning is a series of actions taken by people in order to understand and assist in the development of their lives. Farmers plan when they decide what and when to plant. Ranchers plan by determining the number of stock, range, and feed for future markets. Entrepreneurs use planning when they think ahead for inventories, investments and profits. In other words, people who look ahead or try to influence future events for themselves are planning. Cities, towns, and counties also need to plan their futures. The common thread in all planning activities is the concern with future events. We cannot plan for the past. We can, however, plan for both the immediate and the long range future.

GROWTH POLICY OVERVIEW

“Growth Policy,” “Comprehensive Plan,” and “Master Plan,” are terms often used in the planning field, and with the passage of Senate Bill 97 the terms are synonymous. The 1999 Montana Legislature passed an act (76-1-601 through 76-1-606, MCA) changing the terms “master plan” and “comprehensive plan” to “growth policy.” The Act also established minimum requirements for growth policies (listed on page 2), although local governments still have the option of adopting growth policies. The intent of this publication is to provide local governments with some useful resources and guidance in creating growth policies. The resources provided are not all-inclusive, and it should be kept in mind that there may be many other useful resources available.

Long-range planning activities are very broad and inclusive efforts. These efforts take into account the effects and interrelations of as many relevant physical, social, and economic conditions as possible. “Comprehensive planning” is a broad attempt at understanding a community’s past and present, and is also an attempt to influence future social, physical, and economic events to that community’s benefit.

A growth policy is an official public document adopted and used by a local government as a general guide for development and conservation decisions. It is not a regulation; rather, it is an official statement of public policy to guide growth and change. **Planning boards are the only public entities authorized to prepare growth policies.**

Creating a growth policy takes time and effort. The more thorough the process is, the more time will be necessary for completing the plan, developing the implementation tools, and carrying out the policy. This activity can be broken down into a series of phases:

1. **Background Research** - The gathering and examination of data on past and present events.
2. **Goals and Objectives; Development of Growth Policy** - With citizen input and involvement, goals and objectives are formulated. Implementation tools are established, which will enable the local government to carry out the growth policy.
3. **Implementation** - The local government takes actions according to the growth policy in

order to accomplish the stated goals and objectives

4. **Evaluation** - The previous steps are periodically reviewed and revised.

GROWTH POLICY REQUIREMENTS

Section 76-1-601 MCA (Senate Bill 97) identifies several elements which must be addressed as part of the growth policy. **This statute does not, however, define the extent to which each element must be described.** The required elements are:

- Community goals and objectives;
- Maps and text which describe the jurisdictional area (including information on land uses, population, housing needs, economic conditions, local services, public facilities, natural resources, and other jurisdictional characteristics);
- Projected trends for each of the above listed items for the life of the growth policy (except public facilities);
- A description of the policies, regulations, and other tools to be implemented in order to carry out the policy;
- A strategy for the development, maintenance, and replacement of public infrastructure;
- A timetable for implementing and updating the growth policy itself;
- A statement which explains how the governing bodies will coordinate and cooperate with other jurisdictions;
- A statement which explains how the governing body will handle subdivision review and how public hearings relating to subdivision review will be conducted;
- A statement which explains how the governing bodies will define the criteria in 76-3-608(3)(a), MCA.

These topics are further addressed in this section. Please refer to Appendix A of this guide for a copy of 76-1-601, MCA in its entirety.

Maps

Before a community proceeds with the comprehensive planning process an adequate base map should be obtained. A base map shows basic information about the community including the full boundaries of the planning area, platted streets, railroads, rivers, lakes, public properties, and street blocks.

The scale of the base map varies with the size of the area to be mapped. (For most small and

medium sized communities, a scale of 1 inch equals 100 feet up to 1 inch equals 500 feet, provides a fairly clear view of each lot. For counties, scale ranges of 1 inch equals 200 feet up to 1 inch equals 1000 feet are more appropriate.) Aerial photographs are sometimes used as a beginning base map. It sometimes is advisable to have a large sized map for wall mounting and other maps reduced in size for field work. Some planning agencies keep a base map up to date as changes occur. In others, a new map is periodically prepared.

Section 76-1-601(2)(b), MCA requires maps and text which describe an inventory of the existing characteristics and features of the jurisdictional area, including: land uses; population; housing needs; economic conditions; local services; public facilities; natural resources; and other characteristics and features proposed by the planning board and adopted by the governing bodies. Further, section 76-1-601(2)(c), MCA requires projected trends for each of the above elements (except public facilities) for the life of the growth policy.

Land Uses

The land use study is basic to effective land use planning and to the use of such implementation tools as zoning or subdivision regulations. This study analyzes the way in which community lands are being used. Some information is easier to analyze in tables or charts. However, mapping of as much information as possible may be more easily understood. Therefore, most land use studies are composed of maps showing various information, supported by descriptive, analytical documentation.

The purpose of land use maps is to visually show different land use planning areas and to aid planning boards in the identification of logical, future development patterns. A growth policy must contain a current land use map, a proposed land use map, or both. The map should show all of the community plus four to twelve miles outside of the jurisdiction. The base map provides a suitable beginning for a land use map.

Preparing a land use map requires extensive time and field work. Land use maps can be prepared by a variety of people: staff planners, consultants, or planning board members. Other people who may be helpful in preparing such maps are city drafting staff, city or county engineers, building inspectors, city or county clerks, and high school and college students. It is very important to establish uniform procedures for gathering and recording land use data. This will yield more accurate maps and information. The information should be quickly acquired, coded and mapped in order to reflect the most current situation.

The planning board must initially decide on the land use classification system to use in gathering information. This classification system will vary from community to community. To be of maximum benefit, there should be some attempt to coordinate land use classes between adjoining communities and counties. A suggested classification system follows:

SUGGESTED LAND USE CLASSIFICATION SYSTEM

Land use classes for counties and small communities	Map codes	Colors	Land use classes for urbanizing counties and larger communities	Map codes	Colors
Residential	(R)	yellow/orange	Residential: Single family 2-4 family Multi-family Mobile Homes	(R-1) (R-2) (R-3) (MH)	light yellow med yellow dark yellow yellow/orange
Industrial	(I)	grey to black	Industrial Heavy Manufacturing/Industry Light Manufacturing/Industry Other Manufacturing/Industry	(I-1) (I-2) (I-0)	black dark grey light grey
Commercial (or Trade & Service)	(C)	red	Commercial: Wholesale Trade/Business Retail Trade/Business Services/Other Business	(C-1) (C-2) (S)	dark red med red light red
Transportation, Communication and Utilities	(TR) (CM) (UT)	use lines use lines	Transportation - Transportation Communication-Communication Utilities - Utilities	(TR) (CM) (UT)	black lines black lines black lines
Cultural, Entertainment, and Recreational	() () ()	light blues, pinks or greens	Cultural - Cultural Entertainment - Entertainment Recreational - Recreational	() () ()	light blue pink light green
Resource Production and Extraction	(AFM)	greens & browns	Resource Production - Agricultural and Extraction - Forestry -Mining/Quarrying	(A) (F) (MQ)	med green dark green brown
Transitional (or Vacant)	(V)	no color	Transitional - Vacant Urban/Built-Up (or Vacant) - Vacant Rural - Other Vacant/Low-Use	(VU) (VR) (VO)	no color no color no color
Water Related	(use name)	blue	Water Related - Major Water Bodies - Major Water Courses - Other Water Bodies/Courses	(name) (name) (name)	dark blue dark blue dark blue

There is nothing sacred about the suggested land use categories. Their intent and purpose are for coding, analyzing, and displaying land use information. They are recommended for their comparability and compatibility with other information sources that the local community or county planning staff will probably use.

The planning board must also decide what method to use in order to obtain information for the land use study. One way is to use photo-reduced base maps showing all parcels, lots, streets, and other features. Then people are assigned to an area, and they traverse the area either on foot or by car. In crossing their areas, they note on their map the land use activities they observe. They also plot the type of residences (single family, multi-family, trailer, etc.), type of business (manufacturing, retail

or wholesale trade, general business, gas station, etc.), the open spaces (park playground, vacant lot, agricultural uses, etc.), the utility corridors (telephone lines, known water and sewer corridors, gas and oil pipe lines), the public facilities (library, schools, churches, convention centers, swimming pools, stadium, etc.), and other information. Another commonly used method is to obtain current aerial photographs of the area, and then mark the land use features and information on the photographs.

The actual classification of land uses involves its own set of problems. Sometimes the name of the activity (grocery store, barber shop, etc.) is penciled directly on the map, then later coded in finished form. Problems arise in assigning various land uses to established land use categories. The choice of how many and what type of land use classes to use is determined by the local complexity and extent of the analyses to be undertaken. There are occasions where one or two land use classes may be divided into several sub-classes, other classes are left as aggregates. Residential land use activities are often divided into sub-classes, such as single family, two to four family, multifamily, and manufactured housing.

As an element of the growth policy, the Land Use Plan emerges by integrating the background studies and goals and objectives with population and economic projections. Future land use requirements are generally projections of current space requirements in present land use classes modified by anticipated impacts. With public input, the planning board must make a series of evaluations identifying alternative land development scenarios and narrowing these alternatives down to those which the community finds are most desirable. Various land use alternatives may be eliminated through detailed analysis and comparison of background studies, environmental constraints, community revenue and expenditures, and social and private costs and benefits in light of development goals and objectives. The final alternative is then a "best fit" design of probable and desirable land development policy showing areas most desirable for specific land uses.

Transportation

Closely related to projected land use is the topic of access and transportation. The physical layout and spatial arrangement of the land uses have to be logically related to a transportation network that provides easy movement of people and goods. Transportation plans are usually developed as a series of "alternatives" starting from the goals and objectives. The basic inputs are population forecasts and economic projections for the planning area, combined with the results of field studies (such as traffic counts) and technical analysis. Pedestrian and bike paths should be considered in addition to vehicular routes. Large cities also plan for mass transit, where such systems are economically viable. In most cases, professional assistance from a transportation engineer is required for preparation of the transportation element.

Information sources include city or county street or road departments, county commissioners, the Montana Department of Transportation, and the Institute of Transportation Engineers. Information may be obtained by interviews with city or county officials and staff. Accident records may provide a coarse indication of problem interchanges and traffic bottlenecks which the plan would correct or mitigate. Trip Generation, published by the Institute of Transportation Engineers in Washington, D.C., is a standard reference book used for automobile trip analysis.

Potential Information Sources

-Maps

-U.S. Geological Survey, Rocky Mountain Mapping Center, Box 25286, Denver, CO 80225 (888)275-8747 <http://rockyweb.er.usgs.gov/>

-Montana Department of Administration, Information Services Division, Geographic Information Systems Services (GIS), c/o Stewart Kirkpatrick, Room 229 Mitchell Building, P.O. Box 200113, Helena, MT 59620-0113 (406)444-9013

-Montana Department of Transportation, Transportation Planning Division, P.O. Box 201001, Helena, MT 59620-1001 (406)444-3423 web site: <http://www.mdt.state.mt.us./planning/public.html>

-Montana State Library, Natural Resource Information System, P.O. Box 201800, Helena, MT 59620-1800 (406)444-5354

-Local fire insurance firms (for Sanborn Maps)

-Local Assessor's office

-County Surveyor's office

-Transportation

-Montana Department of Transportation, Transportation Planning Division, P.O. Box 201001, Helena, MT 59620-1001 (406)444-3423 web site: <http://www.mdt.state.mt.us./planning/public.html>

-City and County Road Departments

Population

Population projections are fundamental to comprehensive planning as they are the basis for estimating all other future needs in the community. Population projections help local government officials estimate the type and quantity of public facilities and services that will be required for the future. Projections also help businesses conduct market analysis for improvement or new business expansion. Population projections need periodic adjustment and revision if major changes occur in the community over time.

In addition to the number of people, such characteristics as age, distribution, ethnic groups, and population density should be analyzed. In larger communities, such population characteristics are often mapped by using symbols to represent density. Such mapping can aid in visualizing cultural relationships with income, employment, housing or other subjects.

The Montana Department of Commerce Census and Economic Information Center (CEIC) is an

important source for population data. This center is the official source of U.S. Census data for Montana, and keeps records on economics and demographics throughout the state as well. CEIC is the designated state agency to provide user access to electronic data from the Census Bureau and to receive, reproduce, and distribute maps produced by the Bureau. CEIC also compiles and updates the Montana County Statistical Reports, which are a collection of demographic and socioeconomic data for each of the state's 56 counties.

Potential Information Sources

-Montana Department of Commerce, Census and Economic Information Center, P.O. Box 200501, Helena, MT 59620-0501 (406)444-4214 website: <http://commerce.state.mt.us/ceic>

-Montana Office of Public Instruction, P.O. Box 202501, Helena, MT 59620-2501 (406)444-3095

-Montana Department of Labor and Industry, Office of Research and Analysis, P.O. Box 1728, Helena, MT 59624-1728 (406)444-2741

-University of Montana, Bureau of Business and Economic Research, Gallagher Business Building, Ste 231, 32 Campus Dr. #6840, Missoula, MT 59812-6840 (406)243-5113

Housing Needs

The topic of housing is fundamental to the concept of "community." Housing studies attempt to determine the type, size, location and quality of housing in the community. These studies also include information on "isolated" housing such as farms, ranches, and vacation homes in the planning area. This information is supplemented by U.S. Census data or survey information on the occupants of all housing units, including economic and social characteristics. The housing element discusses the need for different housing types such as single family dwellings, duplexes, apartments, and manufactured housing. Lack of affordable housing has been a problem in many communities.

Housing studies usually trace the trends in mortgage financing, market conditions, housing quantity and housing quality (deterioration, blight, need for building codes, etc.). This information is then related to land use, transportation facilities, employment, health, recreation, and public facilities in order to produce an implementation plan for meeting local housing needs. The element may suggest geographic areas in the community which appear most suitable for new housing development based on background studies, market analysis, availability of capital improvements, and other factors.

The Montana Department of Commerce Community Development Block Grant (CDBG) Program has published a manual entitled Designing and Initiating a Small Community Housing Program. This book includes information on conducting a needs assessment, and an easy step-by-step process for assembling a housing plan. Sample housing plans for the City of Red Lodge and the City of Miles City are also included. Although the Montana Growth Policy law does not require a full-fledged housing plan, the information in the above-listed book is helpful.

Potential Information Sources

- U.S. Department of Agriculture, Rural Development/Rural Housing Service (RD/RUS), P.O. Box 850, Bozeman, MT 59771 (406)585-2515.
<http://www.rurdev.usda.gov/>
- Montana Department of Commerce, Community Development Block Grant Program, P.O. Box 200501, Helena, MT 59620-0501 (406)444-4477
- Montana Department of Commerce, Home Investment Partnership Program (HOME), P.O. Box 200545, Helena, MT 59620-0545 (406)444-0092
- Montana Department of Commerce, Montana Board of Housing, P.O. Box 200528, Helena, MT 59620-0528 (406)444-3040
- Montana Department of Commerce, Building Codes Division, P.O. Box 200517, Helena, MT 59620-0517 (406)444-3992
- Montana Department of Revenue, P.O. Box 5805, Helena, MT 59604-5805 (406)444-2460
- Local bankers, building contractors, developers, and real estate agents should be consulted

Economic Conditions

Local economic studies analyze income and employment in manufacturing, wholesale and retail trades, transportation, mining, agriculture, professional services, government, construction, etc. When properly tabulated, the income and employment of the community will reflect the current economic situation and will form the basis for forecasting future employment and income trends. These trends will influence decisions about land area needed for new business and residential development.

Employment is often classified as two basic types: "Primary Employment" provides services or the production of goods principally for persons living outside the local economy; "Secondary or Derivative Employment" provides necessary services, goods, and facilities principally for the residents of the local economy. Analysis usually focuses on the relationship between the two employment types, such as the history of employment in each type and their changing relationship due to industrial and commercial changes, population shifts, etc. As jobs are created in new or expanded primary employment there is usually a corresponding change in secondary employment. Therefore, "trends" and "potentials" for employment are estimated and give some insight into future community needs.

By looking at income and employment, an economic study tries to identify future growth trends and possibilities. Elements such as how fast primary jobs are created or lost in response to export markets figure heavily in local economies. Per capita income is used as a measure of average citizen well-being in comparison with other communities, the state, regional, and national levels.

The figures or numbers used in economic analyses have to be kept current and tabulated in usable forms to be of value. They should present a clear, current picture of the local economy. It must be kept in mind that economic development plans affect both public and private sectors of local economies. The preservation and expansion of the economic base is usually the prime objective in providing viable communities.

Potential Information Sources

- U.S. Department of Commerce, Economic Development Administration.
Federal Building Room 196, 301 S. Park Avenue, Drawer 10074, Helena, MT 59626,
(406)441-1175
- Montana Department of Commerce, Census and Economic Information Center, P.O. Box 200501, Helena, MT 59620-0501 (406)444-4214 web site: <http://commerce.state.mt.us/ceic>
- Montana Department of Commerce, Economic Development Division, P.O. Box 200505, Helena, MT 59620-0505 (406)444-1872
- Montana Department of Revenue, P.O. Box 5805, Helena, MT 59604-5805
(406)444-2460
- Montana Department of Labor and Industry, P.O. Box 1728, Helena, MT 59624-1728 (406)444-9091
- University of Montana, Bureau of Business and Economic Research, Gallagher Business Building, Ste 231, 32 Campus Dr. #6840, Missoula, MT 59812-6840
(406)243-5113
- Northwest Income Indicators Project (NIIP) web page- <http://niip.wsu.edu>
- Local Chambers of Commerce, retail trade associations, banks, and savings institutions should be consulted.

Local Services

Local services should be considered a vital component of the necessary community infrastructure. These services generally include: law enforcement; public health; education; library; social services; utilities; and other governmental or non-governmental services considered of value to the community, but which are not identified as public infrastructure under 76-1-601 (2)(e), MCA.

The existing level of each of these services should be quantified. An inventory of these services, when combined with data on the local population, housing conditions, economic conditions, transportation, and public facilities, will provide the framework for the process of identifying goals and objectives (which is discussed later).

Since an inventory of local services is site-specific, local agencies should be the primary contact

when gathering information for the growth policy. Following is a list of agencies which may be able to provide assistance.

Potential Information Sources

-Law enforcement:

-Montana Department of Justice, Highway Patrol Division, 2550 Prospect Ave., Helena, MT 59620-1419 (406)444-7000.

-Municipal police departments and county sheriff's offices should be consulted.

-Public health:

-Montana Department of Public Health & Human Services, P.O. Box 4210, Helena, MT 59604 (406)444-9530.

-Local hospitals and county health departments should be consulted.

-Education:

-Montana Office of Public Instruction, P.O. Box 202501, Helena, MT 59620-2501 (406)444-3095.

-Local school district boards should be consulted.

-Library:

-Montana State Library, P.O. Box 201800, Helena, MT 59620-1800 (406)444-3115.

-Local libraries should be consulted.

-Social services:

-Montana Department of Public Health & Human Services, P.O. Box 4210, Helena, MT 59604 (406)444-9530.

-Local long-term care facilities, nursing homes, day care providers, etc., should be consulted.

-Utilities:

-Local electricity and natural gas providers, telephone companies and cable companies should be consulted.

Public Facilities

The pattern of future land development is greatly affected by the location and adequacy of public facilities such as water and sewer systems, streets, bridges, parks, and so forth. Adequate public facilities are crucial for protecting public health and enhancing the quality of life.

The public facilities or capital improvements element of the growth policy usually identifies in general terms the capital improvement needs, goals, and policies. Montana law at 76-1-601(2)(e) requires that the growth policy includes a strategy for the development, maintenance, and replacement of public infrastructure. This requirement will be discussed further under "Strategy for Public Infrastructure" on page 15. Planning boards must incorporate an inventory of the existing public facilities into the growth policy.

Potential Information Sources

-Water and sewer systems:

-Midwest Assistance Program, Montana representatives:

- Bill Leonard, P.O. Box 1456, Whitefish, MT 59973 (406)863-4900
- Lee Michalsky, P.O. Box 3957, Butte, MT 59702 (406)494-1858
- Judy Sass, P.O. Box 516, Florence, MT 59833 (406)273-0410

-U.S. Department of Agriculture, Rural Development/Rural Utilities Service (RD/RUS), P.O. Box 850, Bozeman, MT 59771 (406)585-2520;

-Montana Department of Commerce, Community Development Block Grant Program (CDBG) and Treasure State Endowment Program (TSEP), P.O. Box 200501, Helena, MT 59620-0501 (406)444-2488 (CDBG) or (406)444-3757 (TSEP);

-Montana Department of Natural Resources and Conservation, Renewable Resource Grant and Loan Program (RRGL), P.O. Box 201601, Helena, MT 59620-1601 (406)444-6668;

-Montana Department of Environmental Quality, State Revolving Fund Loan Programs (SRF), P.O. Box 200901, Helena, MT 59620-0901 (406)444-5322;

-Montana Board of Investments, INTERCAP program, P.O. Box 200126, Helena, MT 59620-0126 (406)444-0001;

-Local water and sewer district officials should be consulted.

-Fire protection/suppression:

-State Fire Marshall Office, P.O. Box 201415, Helena, MT 59620-1415 (406)444-2050.

-Municipal and rural fire district offices should always be consulted.

-Solid waste:

-Montana Department of Environmental Quality, P.O. Box 200901, Helena, MT 59620-0901 (406)444-4400.

-County or regional land fills, sanitation departments, and solid waste districts should be consulted.

-Bridges:

-Montana Department of Transportation, Bridge Bureau, P.O. Box 201001, Helena, MT 59620-1001 (406)444-6259;

-Montana Department of Commerce, Treasure State Endowment Program (TSEP), P.O. Box 200501, Helena, MT 59620-0501 (406)444-3757;

-County and municipal road and street departments should be consulted.

-Roads/streets:

-County and municipal road and street departments should be consulted.

-Parks:

-Montana Department of Fish, Wildlife, and Parks, P.O. Box 200701, Helena, MT 59620-0701 (406)444-2535

-Local parks and recreation departments should be consulted.

Natural Resources

Along with the land use study, the land's physical characteristics must be assessed. Physical characteristics are, in many ways, the most important determinants of rational land use. In this element of the growth policy, information on topography, slope, geology, soils, vegetation, hydrology, wildlife, climate, flood and earthquake hazards, and other topics are presented. The interrelationships between different environmental characteristics, human activities, and land uses should be discussed. It is especially important that environmental restraints for different types of land development activities and land use activities be identified. Key natural resources which may need additional protection or accommodation should also be identified. Maps, map overlays, photographs and illustrations are helpful in understanding how the many complex ecological factors interrelate with land use and land development.

Information on the physical characteristics of the land should be compiled in both written and map forms. Particular physical features are used to determine health and safety requirements for the

construction of houses, streets, utility and drainage improvements, and various other land development activities.

Potential Information Sources

- U.S. Department of Agriculture, Forest Service, Northern Region, P.O. Box 7669, Missoula, MT 59807 (406)329-3511
- U.S. Department of the Army, Corps of Engineers, 301 South Park, Drawer 10014, Helena, MT 59626-0014 (406)441-1375
- U.S. Department of the Interior, Bureau of Land Management, Montana State Office, P.O. Box 36800, Billings, MT 59107 (406)896-5011
- U.S. Fish and Wildlife Service, 100 North Park, Suite 320, Helena, MT 59601 (406)449-5225
- U.S. Environmental Protection Agency, Region VIII, Montana Office, 301 South Park, Drawer 10096, Helena, MT 59626-0096 (406)441-1123
- Montana Department of Environmental Quality, P.O. Box 200901, Helena, MT 59620-0901 (406)444-6697
- Montana Department of Natural Resources and Conservation, P.O. Box 201601, Helena, MT 59620-1601 (406)444-2074
- Montana Department of Agriculture, P.O. Box 200201, Helena, MT 59620-0201 (406)444-3144
- Montana Department of Fish, Wildlife, & Parks, P.O. Box 200701, Helena, MT 59620-0701 (406)444-2535
- Montana State Library, Natural Resource Information System, P.O. Box 201800, Helena, MT 59620-1800 (406)444-5354
- Montana Wetlands Council, Lynda Saul, President, MDEQ, P.O. Box 200901, Helena, MT 59620-0901 (406)444-6652
- Montana Department of Military Affairs, Disaster and Emergency Services Division, P.O. Box 4789, Helena, MT 59604-4789 (406)841-3964
- Montana College of Technology, Bureau of Mines and Geology, 1500 West Park Street, Butte, MT 59701-8997 (406)496-4167
- Local Disaster and Emergency Services offices

Other Characteristics

Background studies may be undertaken on subjects that are unique to the community. These studies may include, but are not limited to:

1. historic resources
2. environmental quality,
3. the central business district,
4. waterfront development,
5. recreation facilities and services,
6. cultural facilities and services,
7. particular governmental functions (taxation, regional or multi-jurisdictional cooperation and sharing), etc.,
8. community blight and renewal possibilities.

Special studies are useful since each community has some unique qualities or conditions that merit greater examination. A historical analysis may provide a brief history of how the community developed and changed over time. Implications for future planning should be noted. The analysis may include information on historical sites and resources. Opportunities to protect or enhance historical sites may be presented.

In single resource-dependent communities there may be a study of possible economic diversification, or an examination of the extent to which the local economy is dependent upon that resource.

Potential Information Sources

-Historical Analysis

-Montana State Historic Preservation Office, P.O. Box 201202, Helena, MT 59620-1202 (406)444-7715

Projected Trends

76-1-601(2)(c), MCA requires "projected trends for the life of the growth policy for each of the following elements: land use; population; housing needs; economic conditions; local services; natural resources; and other elements proposed by the planning board and adopted by the governing bodies" be included as part of the growth policy. Note that the only topic described in the data-gathering section above which is not included here is public facilities. At the organizer's discretion, the policy may be formatted so that the projected trends are included after the initial topic discussion, or so that the projected trends make up a completely separate section of the plan.

The projection of trends is fundamental to the growth policy. This element identifies whether the community is growing, stable, or declining, and provides the foundation for establishing community goals and objectives. The 'projected trends' element documents where a community is changing (growth or decline, and in which specific areas of the town or county), as well as by how much. The organizers may use multiple projections or scenarios based on different population and economic assumptions. The results of economic base studies, business surveys, and other information about where the local economy is and where it is going should be presented. The community's economic

strengths, weaknesses, and opportunities should be discussed.

Summary

A variety of background information and studies are undertaken to produce a greater understanding of the community, and as preparation to developing plans for guiding growth. Such broad topics as economics, population, land use, transportation, physical land characteristics, public facilities, public services and housing are examined in varying detail, related to each other, and produced as community studies. Information sources include published and unpublished documents, private citizens in the local communities, and public employees at the local, state, and federal levels. Those characteristics and items capable of being mapped are graphically displayed on base maps of the planning area. Visualizing such information helps to discern physical relationships and provides for easier conclusions and plans. A summary of the background studies should be made available for public review, and should be in an understandable format.

OTHER GROWTH POLICY REQUIREMENTS

In addition to the requirements described above, state law requires that the following elements be included as part of the community's growth policy.

Implementation Tools

Montana law at 76-1-601(2)(d), MCA requires that the growth policy must have "a description of policies, regulations, and other measures to be implemented in order to achieve the goals and objectives established pursuant to [this planning process]." The section of this book entitled "Implementation of the Growth Policy" describes some of the tools available for carrying out the goals and objectives stated in the growth policy.

The implementation tools may either be discussed in a 'conclusions and recommendations' section of the growth policy, or it may be included as a separate 'implementation options' element. Regardless of the format used, a thorough discussion of the implementation of the growth policy is crucial. Generally, this element includes information on the practical uses of the growth policy, and the relationship of the implementation tools to the policy. Various options, alternatives, and recommendations for implementing the plan may be discussed. Detailed information on specific provisions of implementation tools such as zoning, subdivision regulations, building codes, and capital improvements should not be included in the growth policy. Detailed information should be included in separate publications or reports for each of the individual implementation tools.

Strategy for Public Infrastructure

Per 76-1-601(2)(e) MCA, this element must include at a minimum: "a strategy for development, maintenance, and replacement of public infrastructure, including drinking water systems, wastewater treatment facilities, sewer systems, solid waste facilities, fire protection facilities, roads, and bridges." **This does not mean that a fully developed capital improvements plan must be included in the growth policy.** The public facilities element in the growth policy is general. Because of the many complex engineering and financing issues associated with capital improvements, a much more detailed capital improvements plan (CIP) and capital budget are usually

prepared as a means to implement the growth policy's public facilities element. See page 26 of this guide for additional discussion on the relationship between the CIP and the growth policy.

The "strategy" required in the growth policy statute is really just a rationale for directing growth. A key focus of this element is to relate and integrate goals for capital improvements with other community goals expressed in the growth policy. For example, if a community wants to promote job creation by building an industrial park for new businesses, capital improvements such as central water and sewer line extensions for the industrial park usually will be necessary.

Growth Policy Implementation Strategy

The new state planning law at 76-1-601(2)(f), MCA, requires that the growth policy includes the following: "A timetable for implementing the growth policy; a list of conditions that will lead to a revision of the growth policy; and a timetable for reviewing the growth policy at least once every 5 years and revising as necessary." The growth policy is intended to be a living, useful document by which local governments guide present and future development. This section of state law requires that local governments evaluate their growth policies at least every five years once adopted. Rewriting or changing the growth policy may or may not be necessary, depending on whether the policy still accurately reflects the community's situation and needs.

Statement of Interjurisdictional Cooperation

The new planning statute (76-1-601(2)(g), MCA) requires that a growth policy must include "a statement of how the governing bodies will coordinate and cooperate with other jurisdictions that explains: if a governing body is a city or town, how the governing body will coordinate and cooperate with the county in which the city or town is located on matters related to the growth policy; if a governing body is a county, how the governing body will coordinate and cooperate with cities and towns located within the county's boundaries on matters related to the growth policy." Simply stated, this section of Montana law requires local government jurisdictions which have adopted growth policies to coordinate with their neighboring jurisdictions on planning issues.

Subdivision Review Statement

The new law requires that a growth policy must include "a statement explaining how the governing bodies will: define the criteria in 76-3-608(3)(a) [MCA]; and evaluate and make decisions regarding proposed subdivisions with respect to the criteria in 76-3-608(3)(a) [MCA]." **Section 76-3-608(3)(a), MCA referred to in the above sentence requires local governments to review a proposed subdivision's effect on "agriculture, agricultural water user facilities, local services, the natural environment, wildlife and wildlife habitat, and public health and safety."** See Appendix D of this book for possible definitions of these terms.

One important provision of the growth policy law is that if a local government identifies a specific geographic area (or areas) in which subdivisions are deemed to be desirable, the local government may exempt subdivisions from the requirements of 76-3-608(3)(a) provided that review has already been done by the local government. The local government must also have adopted zoning regulations which cover the designated growth area.

Public Hearing Statement

The new statute (76-1-601(2)(i), MCA) also requires that the growth policy must include “a statement explaining how public hearings regarding proposed subdivisions will be conducted.” Public hearings for subdivision review are governed by 76-3-605, MCA (except in the case of summary review for qualified minor subdivisions, in which case the subdivision is exempted from the public hearing requirement under 76-3-505, MCA). This element should include a discussion of the rules which will be used for public hearings, and the time limits which will be placed on those hearings. Recent court decisions have held that public meetings which extend late into the night are not really accessible to the general public. Therefore, it is better to place time limits on public meetings and identify the procedures by which the meetings will be continued.

OTHER GROWTH POLICY OPTIONS

At the local government’s discretion, the growth policy may include other elements as well. Montana statute at 76-1-601(3)(a) and (b), MCA allows neighborhood plans which are consistent with the growth policy to be included as part of the policy itself. A neighborhood may be defined geographically or by political boundaries, as long as they are easily identifiable by the residents of the neighborhood.

Subdivisions proposed in areas which have been designated in the growth policy as growth areas may be exempted from the review requirements of 76-3-608(3)(a), provided that review has already been done by the local government for the growth area. Also, per 76-1-601 (4), MCA “the planning board may propose and the governing bodies may adopt additional elements of a growth policy in order to fulfill the purpose of this chapter.”

GOALS AND OBJECTIVES; DEVELOPMENT OF THE GROWTH POLICY

With background facts and studies in hand, the community enters one of the most important phases of the development of a growth policy: the formation and recording of community goals and objectives. The development of goals and objectives provides the framework for the growth policy. **Public participation in the formation of community goals and objectives is crucial.**

Public Participation

To be successful, community planning must provide adequate opportunities for citizens to participate. Planning is a democratic public process in which everyone must have an opportunity to express their views on community goals, needs, problems, and opportunities. A community should have a strategy to continually involve the public, and the community must comply with Montana statutory requirements on public participation.

There are many methods which can be used to encourage public participation. Informal neighborhood and town meetings, citizen surveys and questionnaires, media coverage, open houses, distribution of printed materials, presentations to civic groups, and public hearings are just a few options. The Montana Department of Commerce Community Development Block Grant (CDBG) Program has published a booklet entitled The Community Needs Assessment Process, which identifies and explains several different methods of generating public involvement and obtaining

public input. This publication also includes examples of some of the creative ways in which Montana communities have obtained public input in the process of planning and assessing needs.

Local officials are well aware that formal public hearings are sometimes a very ineffective means of getting people involved or encouraging meaningful dialogue or discussion. A common problem with the conventional public hearing format is that the citizens who are most agitated about an issue or proposal will be very vocal and dominate the public comment period. Frequently, persons with more moderate views or who just have questions will be less inclined to speak up in an emotionally charged environment. For this reason, informal meetings such as open houses are becoming increasingly popular.

Typically, an open house involves providing a meeting area where visual displays related to an issue can be put up for public viewing. Staff or members of a needs assessment task force or planning board can be posted by the displays to explain the information. For example, in the context of a needs assessment or community planning effort, displays can be provided relating to various community issues such as housing conditions, land use, public facilities, parks and recreation, plans for improvements to local water or sewer facilities, a new public building, or the growth policy in general. Forms can be provided for people to make written comments or the persons stationed at the displays can take down comments. Open houses can be scheduled at times when it would be convenient for people to stop by after work, if they have other commitments. Open houses can also be held prior to a public hearing or a facilitated community forum using a group process so that people can get more information before any public discussion begins.

There is no single best method of obtaining public comment. It may be advisable to try a combination of two or more of the methods mentioned above. In all cases, the methods of obtaining public input should be tailored to the community involved.

Goals and Objectives

The growth policy goals and objectives are statements of the way the community intends to develop socially, economically, and physically. They are intended to guide the growth and development of the city/town, county, or other planning area.

These statements may be categorized into at least three levels:

1. The first are broad, inclusive goals normally expressed in the introduction of the growth policy.
2. The second are the more specific objectives expressed in the growth policy elements, such as in the land use, transportation and capital improvement elements.
3. The third are policies which are usually quite specific to the implementation level, such as the zoning ordinance, subdivision regulations, and various codes.

The goals and objectives in each of these successive specific levels are subject to their "useful life". A growth policy's goals are normally long range, geared to developments and changes for the next

20 years. Various elements of the growth policy (land use, transportation, etc.) are ranged from 3 to 5 years. Finally, the implementation tools (zoning ordinance, subdivision regulations, etc.) are normally short ranged, and reviewed and revised within a two to three year span. In actual practice, these times vary greatly as changes often occur with bewildering speed. The idea is sound, however, that the growth policy is intended to provide guidance for a long range period. Implementation tools provide guidance for shorter range periods and ensure movement toward the long range goals and objectives. It should be noted that sections 76-1-601(2)(f)(ii) and (iii), MCA require the local government to include as part of the growth policy "a list of conditions that will lead to a revision of the growth policy; and a timetable for reviewing the growth policy at least once every 5 years and revising the policy if necessary."

The final adopted growth policy may be published as a single document including the maps, drawings, photographs, tables and charts. The proposed land use map showing desired future development patterns is sometimes included as a folded map inside the front or back cover. A convenient size for the final document is 8 ½ x 11 inches, bound in a loose leaf binder or other form which makes it easy to insert updates or changes. The publication should not be so expensively produced that it obscures its practical usefulness.

Adoption of the Growth Policy

Montana statute in 76-1-602 MCA through 76-1-604 MCA sets out the basic process that a local government must use to officially adopt the growth policy. Legal notice must be given and public hearings on the policy must be held. Prior to holding the legally required hearings, a series of more informal and informational public meetings should be held in order to solicit public input on the proposed growth policy. Making changes suggested by the public will both improve the final product and increase public support for it. Adequate time must be taken to consider and incorporate the public's ideas and suggestions into the proposed growth policy.

IMPLEMENTATION OF THE GROWTH POLICY

General

A number of tools are available to help implement a growth policy. Planning, scheduling and financing the construction of water and sewer extensions, streets, and other public facilities can significantly save tax dollars, and can influence the location and timing of new development. A community can address problems related to affordable housing by providing assistance for rehabilitation of existing housing or construction of new housing. Conservation easements can be used to prevent intrusion of development into productive agricultural land. Adopting regulations dealing with land use and building standards are a common means of implementing growth policies. In order for a plan to be truly effective, the planning jurisdiction may need to implement various types of regulations. Local government has the ability to use a variety of land use regulations such as: subdivision regulations, zoning, development permit regulations, floodplain regulations and lake shore regulations. These and other tools will be discussed in more detail below.

Relationship of Growth Policy to Land Use Regulations

The growth policy is a non-binding document that is developed through a public process that identifies land use issues and gives direction for dealing with those issues. Regulations, in contrast,

carry out the direction and policy of the plan by articulating in specific language any requirements that govern the use of land.

Montana law requires that zoning and development permit regulations conform to an adopted plan. In the case of *Little v. Flathead County*, the Montana Supreme Court ruled that land use regulations must closely conform to the master plan (growth policy). In fact, before amendments to a zoning ordinance may be made, the plan may have to be amended to ensure that the zoning amendments will conform. The purpose of this requirement is to ensure that land use regulations are drafted and enforced consistently and within the context of a broad, carefully considered, public purpose. The plan is the public's expression of a planning vision for the community. Regulations adopted in conformance with a plan are less likely to be arbitrary than those adopted in isolation.

Prior adoption of a growth policy is not a prerequisite for a local government to adopt subdivision regulations. In fact, state law requires all units of local government to adopt and enforce subdivision regulations regardless of whether they have a growth policy. However, local governments that have adopted policies can draft more effective subdivision regulations. Both the Montana Local Planning Enabling Act and the Montana Subdivision and Platting Act authorize local governments to consider compliance with an adopted growth policy as a criterion for approving or disapproving a proposed subdivision (76-1-606, MCA, and 76-3-604, MCA).

Subdivision Regulations

Subdivision regulations regulate the process of dividing land into lots and providing public facilities (e.g., roads, water, sewer, storm drainage) to the lots. The platting and creation of lots is not only the first phase in development, the action sets the long-term land use pattern for the community. Therefore, proper public review of proposed land division is vital to:

- (1) prevent or minimize impacts on public health and safety, the natural environment, and wildlife,
- (2) ensure desirable future land use patterns, and
- (3) allow cost-effective provision of public services, thereby reducing tax expenditures.

In Montana, local government subdivision regulations must evaluate a proposed subdivision's impact on a number of areas such as the natural environment, wildlife, public health and safety, local services, and other factors. The Montana Subdivision and Platting Act (MSPA) requires all units of local government to adopt and enforce subdivision regulations, and to review and decide on development proposals that would divide land into parcels of less than 160 acres, construct one or more condominiums, or provide multiple spaces for mobile homes or recreational camping vehicles.

A subdivision must be properly surveyed, comply with local design standards, and provide legal and physical access and utility easements. Also, in reviewing subdivision proposals, local officials must issue written findings of fact that consider the effect the development would have on agriculture, agricultural water user facilities, the natural environment, wildlife and wildlife habitat, local services, and the public health and safety. In addition, the written findings of fact must address the other criteria required by state law. See section 76-3-608 of Montana law. Local governments that have adopted growth policies must review subdivision proposals to ensure that they conform to the policy.

according to 76-3-604 (1), MCA.

The Montana Sanitation in Subdivisions Act (MSIS) was enacted to ensure proper sewage and solid waste disposal, water supply, and drainage in subdivisions. Under the MSIS, the Department of Environmental Quality must approve the sanitation facilities proposed for a subdivision. Thus, a subdivision proposal must receive two separate approvals - local approval under the MSPA, and state approval of sanitation facilities under the MSIS.

The following publications provide details on the MSPA, the MSIS, and subdivision review, and are available from the Department of Commerce/Community Technical Assistance Program:

- Montana's Annexation and Planning Statutes
- Montana's Subdivision and Surveying laws and Regulations
- Model Subdivision Regulations
- A Primer: Subdivision Review Under the Montana Subdivision and Platting Act

Zoning Regulations

Traditional zoning is the legal method by which local governments protect the public health, safety and welfare by dividing jurisdictions into use districts (zones), restricting various uses to certain zones, and imposing requirements that the permitted uses must meet.

As early as the 1800's, city governments in America were preventing slaughterhouses from locating in residential neighborhoods to prevent odor and noise problems, and requiring adequate spacing between buildings to prevent the spread of fire. These early restrictions on land uses benefitted both the general public and private property owners. Modern zoning regulations still focus on preventing problems by separating incompatible uses and by requiring uses to meet standards that protect both public and private property owners.

One basic objective of zoning is to separate incompatible uses to prevent the adverse or undesirable effects they can have on one another. Another objective of zoning is to achieve a quality and character of development that ensures safe and healthy communities. Zoning is the only way to regulate density, construction standards, and land uses. In order for zoning to be effective, the zoning regulations must be designed to meet the preferred goals and objectives identified in the growth policy.

Because zoning regulates the location of various uses, the zoning map, showing the precise boundaries of each use zone, is one essential part of the zoning regulations. The other essential component is adequate text which specifies the required standards, necessary procedures, circumstances for requesting appeals, and enforcement and administrative requirements.

In recent years, some people have criticized zoning as ineffective, inflexible and cumbersome. In fairness, however, zoning as a land use tool is not at fault. Ineffective regulation can result from faulty drafting, or weak or inconsistent enforcement of individual zoning ordinances. Lack of explicit development policies, indiscriminate granting of variances, and lack of public support have rendered some zoning regulations ineffective. But the same problems can also affect other types of regulation. The reasons zoning may fail to be effective would very likely be the same reasons that

any other type of land use regulation would fail: citizens and local officials are not aware of how zoning can solve specific problems; local officials are not committed to proper enforcement; citizens really do not want effective regulations; or the regulations are unreasonable or do not reflect thoughtful planning or policies. Zoning can be an effective tool if the public understands the benefits of zoning, and if the regulations are properly drafted and enforced. Many Montana communities have adopted zoning regulations.

While the incompatibility of differing land uses may be overcome without separating the uses, the techniques for doing so are often expensive, and the costs may fall on taxpayers. Separating incompatible uses through zoning often may be the most direct and least costly means of protecting property values, maintaining a viable business district or a pleasant and safe residential neighborhood, or assuring a functional and safe industrial area. Thus, zoning can provide real benefits to citizens and communities.

In Montana, three different statutes authorize local governments to enact zoning regulations. Cities and towns may adopt and enforce zoning ordinances under the Municipal Zoning Enabling Act; counties may enact zoning under the County Zoning Enabling Act. The third zoning enabling statute, the County Planning and Zoning Commission Act, allows a county to enact land use regulations for an area within the county where at least 60 percent of the property owners sign a petition requesting formation of a district and adoption of regulations.

Relationship of the Growth Policy to Zoning Regulations. Both the Municipal Zoning Enabling Act and the County Zoning Enabling Act require that the local government have an adopted growth policy for the jurisdiction, and that the zoning regulations conform to the policy. The statute authorizing zoning by petition does not require the county to have an adopted growth policy, but the planning and zoning commission must prepare a "development pattern" for the district that identifies the desired location or requirements for future development. It should be noted that new zoning districts may not be created without a compliant growth policy after October 1, 2001.

Board of Adjustment. Under any of the three zoning enabling statutes, local zoning regulations must provide a process for hearing and deciding appeals. For municipal and county zoning, the governing body is required to appoint a board of adjustment to make special exceptions, grant variances, and hear appeals of decisions by the zoning officer. The purpose of the appeal process is to allow the developer, or any affected person to appeal a zoning decision without having to go directly to court. A property owner also may appeal for relief from zoning requirements if, because of the shape, configuration, topography or other circumstance of his particular property, requiring him to comply with the requirements would create real difficulty or hardship. Other persons may appeal if they feel that granting a zoning permit will cause them harm.

Interim Zoning Regulations. Municipalities and counties are authorized to adopt interim land use regulations while a growth policy is being prepared and adopted. The purpose of interim zoning is to protect the integrity of the prospective policy from incompatible development during the time the policy is being prepared and adopted.

Protest of County Zoning. Under the County Zoning Enabling Act, when 40 percent or more of the property owners protest a proposed zoning regulation, the county commissioners may not proceed in adopting the proposed zoning for at least one year.

The state enabling statutes impose very few requirements for the substantive content of the regulations. As long as they satisfy reasonableness and due process requirements, local officials have broad discretion to draft and adopt regulations that suit their community's needs and satisfy the desires and expectations of the local citizens.

Extraterritorial Provisions. The Municipal Zoning Enabling Act allows a city or town to adopt extraterritorial zoning -- regulating land use in the unincorporated area contiguous to the city limits. The rationale for this extraterritorial zoning authority is to allow a municipality to ensure that adjacent growth will be well designed and compatible with the land use patterns in the city.

Development Permit Regulations

Many planners and local officials in Montana have expressed interest in alternatives to traditional zoning as a means to regulate land use. One alternative that can be enacted under existing state enabling statutes is a system called by a number of terms: permit system, performance zoning, performance standards and development standards. In this manual the term "development permit regulations" is used to include all of the various land use permit systems. Development permit regulations are a form of zoning.

As mentioned, development permit regulations focus primarily on the character or quality of new development, with less concern on the location of the development. Development permit regulations may be adopted under any of the three zoning enabling statutes and under the same procedures set forth for zoning. As with zoning, the regulations must provide for an appeals process.

Because development permit regulations implement development policy, the growth policy should be written so that a logical rationale flows from statements of planning issues, through statements of goals and objectives to statements of development policy. **Specific regulations should be tied to explicit policies; policies should be tied to clear goals.** If clear goals and explicit policies have been adopted, appropriate regulations should readily emerge. The values of citizens and governing officials, and the identified land use problems, will also help suggest what types of regulations and what degree of restriction is appropriate in each jurisdiction.

1. Development Standards

Development permit regulations that simply state the standards or requirements new development must meet are the easiest form of land use regulation to draft and enforce. If the growth policy expresses clear and explicit policy statements, drafting specific regulatory language as development standards that implement the policies should be fairly easy. Development standards do not restrict the types of development allowed in given areas. Instead, they are an attempt to mitigate adverse aspects of development that might otherwise clash with the surrounding environment or neighborhood.

Development standards are commonly drafted to regulate:

- Traffic: street widths and grades, street drainage, access points, circulation networks.
- Off-street parking and loading areas: number of spaces, access, circulation.
- Access by emergency vehicles: street and cul-de-sac widths, road grades and curves.
- Unsuitable areas: flood hazard, fire hazard, steep slopes, high ground water, lake and stream shores, wetlands.
- Effects on agriculture: protect irrigation systems, livestock, water supplies.
- Buffering or screening of adjacent uses: height, location, and materials.
- Signs: size, height, location, and materials.
- Setbacks: from streets, lot lines, surface waters.

2. Point Systems

Adopting requirements that outright prohibit or require certain actions may not be feasible or desirable, even though the regulations would help achieve a public purpose. The requirements or prohibitions may be too restrictive to meet legal or constitutional tests. In other cases, the requirements may not be politically acceptable to local citizens or the elected officials.

Development permit regulations can incorporate a point system that awards points to encourage desirable actions and assigns negative points to discourage undesirable actions. A development's composite score determines whether or not it receives approval. Such point systems often are considered to be more flexible (and thus less restrictive) because a developer may offset a low score on one provision with high scores on other provisions. Because of this flexibility, and the fact that awarding points is very different from the precise, restrictive requirements of traditional zoning, point systems may be more readily accepted in rural areas and small towns. Also, in addition to offsetting low scores, the local government can reward developers with high scores through incentives such as paying part of the cost of constructing certain improvements, such as roads or utility lines.

The purpose of a point system is to encourage developers to take, or not take, actions that the local government is unwilling or unable to outright mandate or prohibit. The following are examples of actions that are desirable or undesirable, but the local government may not want to require or prohibit these actions completely:

Encourage:

- Development in preferred locations:
 - near existing services
 - in or adjacent to communities
 - less productive lands
- Cluster development
- Underground utilities
- Affordable housing
- Landscaping
- Appropriate architecture
- Energy conservation

Discourage:

- Development in undesirable locations
 - prime agricultural land
 - wildlife areas
 - sensitive areas
 - floodplains
 - wetlands
 - steep slopes
 - riparian corridors
- Strip commercial development

Point systems are more difficult to draft and administer because of the necessity to establish a reasonable and logical relationship between point values and the relative importance of each provision and to create a proper balance among the various point values. **In addition, assigning point values to a particular proposed development can be highly subjective.**

Floodplain Regulations

Floodplain regulations are enforced to prevent loss of life and excessive property damage; protect public health and safety; and reduce public tax expenditures for emergency evacuation and restoration. In addition to preventing property loss and human injury, floodplain regulations indirectly protect wetlands, riparian areas, and natural stream banks.

If the Montana Department of Natural Resources and Conservation (DNRC) has adopted delineated 100-year floodplains within a local government's jurisdiction, then that local government is required by law to administer regulations relating to development in those floodplains. Both federal and state agencies have set minimum standards regarding types of development allowed in delineated 100-year floodplains. Delineated 100-year floodplains are those lands bordering a stream that are inundated by a flood event equaled or exceeded, on average, once every 100 years. In any year, there is a one percent chance that a 100-year flood will occur. The DNRC officially delineates 100-year floodplains, using detailed hydrological methods, as well as topographic and historic data.

A floodplain comprises two zones: the "floodway" that carries flood waters of faster velocities, and the "flood fringe" that consists of the flood storage and backwater areas and is subject to low water depths and velocities. In the floodway, prohibited uses include: residential, commercial and industrial structures. Prohibited uses in the floodway and flood fringe include: land fills, septic systems, and storage of toxic, flammable, or explosive materials.

For more information on floodplain regulations, contact the local county floodplain administrator, or the Montana DNRC Floodplain Manager at (406)444-6654.

Lake Shore Regulations

Montana law (75-7-201 *et seq.*, MCA) authorizes local governments to adopt lake shore regulations to protect the shore or bank of natural lakes and man-made reservoirs. Lake shore regulations apply to any construction or shoreline alteration within the lake shore protection zone - the land within 20 horizontal feet of the mean annual high-water mark. Lake shore regulations also can be adopted under zoning statutes.

Conservation Easements

A conservation easement (76-6-101 *et seq.*, MCA) is a voluntary legal agreement a landowner enters into to restrict the type and amount of development that may occur on his property. Such an easement ensures that the resource values of the land will be protected according to the terms of the contract. Easements may be granted either in perpetuity, or for a minimum of 15 years with an option to renew.

A landowner may grant an easement to a public agency or to a qualified private tax-exempt organization. If the conservation easement meets federal requirements, property owners may be

entitled to reductions in income and estate taxes. Each easement is different, tailored to the specific needs of the landowner, while assuring that conservation objectives are met. Conservation easements may prevent subdivision development; construction of new residential, commercial and industrial structures; activities resulting in soil erosion or water pollution; mining; and degradation of fish and wildlife habitat. Local governments can work with tax-exempt organizations and property owners to promote and facilitate preservation of productive agricultural lands, or other lands that contribute to the values and assets of the community. Under Montana law, the local planning authority is required to review conservation easements (76-6-206, MCA).

Capital Improvements Plan and Capital Budget

An important tool for implementing growth policy goals and objectives is the use of a community capital improvements plan and corresponding capital budget. Capital improvements are major, high cost public facilities or public works which have a life of two years or more and which cannot be funded from one year's operating budget. Capital improvements include local government infrastructure such as public water systems, wastewater systems, streets, roads, bridges, law enforcement facilities, and so on. A capital improvements plan or "CIP" is a local government's plan to prioritize, finance, and construct or repair public facilities over a five year period. To appropriate money to pay for the CIP, the local governing body needs to adopt a capital budget as part of its annual budget. The CIP should be updated annually in conjunction with the community's budgetary process. State and federal grants and loans are often used to help fund some of the projects in a community's CIP.

The objective of the CIP is to match needed improvement projects with revenue and financing sources to ensure that public facilities will be repaired, expanded, or constructed as required by future growth, public health and safety, or other community needs. How, when, and where public facilities are provided greatly affects the pattern of future land development and the public cost of providing these facilities.

There are many benefits to preparing and implementing a CIP. The CIP furthers the growth policy's development goals and objectives by encouraging development to locate where adequate facilities (such as central public water and sewer systems) are available. This reduces the cost of new development and growth for local governments, developers, and residents. A CIP can be used to encourage land development where and when a community wants it, and also to limit land development pressures in areas where a community deems certain types of development inappropriate. Developers and business persons benefit from a CIP because they will have a better idea as to where and when capital improvements are planned by the local government. Another benefit is that a CIP can help local governments obtain grant funds for construction of public facilities from state and federal agencies.

The growth policy strategy should discuss the needed capital improvements in general terms. The CIP is a more detailed plan which addresses the funding and scheduling of specific improvements, typically for a five-year period. The local government usually sets up a committee to develop the CIP and advise the governing body on the capital budget.

At a minimum, the CIP should contain:

1. A list of needed capital improvement projects for several or all of the public facilities managed by the local government.
2. Clear priorities for funding and constructing the improvement projects (the needs list is put in priority order),
3. Potential and recommended funding sources to pay for each project, and
4. A rough time schedule for each project.

The Department of Commerce has several books available on the CIP process. In addition, the Department has information on potential funding sources for capital improvements.

Special Plans

Special plans should be prepared for activities which are either beyond the required content of the growth policy, or which warrant specific attention. These plans should be incorporated into the growth policy and should generate additional specific goals and objectives. For example, in order to implement downtown redevelopment or historic preservation programs, plans need to be formulated that focus in detail on a specific geographic area and on policies and recommendations dealing with redevelopment or historic preservation. Section 76-1-601(3)(a) and (b), MCA authorizes local governments to include one or more neighborhood plans in the growth policy.

To effectively address local needs for affordable housing, a local government should prepare a housing plan. The housing plan will help local government officials to fully understand their housing needs, and will enable the jurisdiction to qualify for state or federal assistance programs. Housing plans quantify the number and type of existing housing units, units owned by low- and moderate-income families, units in need of rehabilitation, and the additional needed units within various price and rental ranges. The Department of Commerce has available publications which provide guidance on the topics of housing rehabilitation and housing plans.

Economic development plans focus on opportunities to retain and expand employment, and on minimizing constraints to economic growth. Other examples of special plans are: parks and recreation plans, agricultural plans, open space plans, transportation plans, neighborhood plans, corridor plans, and plans to address specific impacts such as coal or hard rock mining.

EVALUATION

“Planning” is a service provided by a government to its citizens. It is a service that should be as streamlined and effective as possible. Changes will occur over time within every community. New issues will arise or issues that were previously not so important may become serious. Local planning programs need to address changes that occur within the community by regularly evaluating the program and the tools the program provides.

Evaluation is a key step in comprehensive planning. In fact, sections 76-1-601(2)(f)(ii) and (iii), MCA require the local government to include as part of the growth policy “a list of conditions that

will lead to a revision of the growth policy; and a timetable for reviewing the growth policy at least once every 5 years and revising the policy if necessary.”

Evaluation helps the community to monitor and improve the planning process and planning products. Evaluation provides an opportunity to adjust the process and products as goals, circumstances, or needs change. At least once a year the board, staff, and governing body should meet and evaluate the plan and the tools used to implement it. The board will want to review the previous year’s work. Specific evaluation criteria can be developed, such as:

1. Are the community’s goals current and valid?
2. Have circumstances, information, assumptions, needs, or legal framework changed?
3. Does additional public input suggest the need to make changes?
4. Are the community planning process and planning products “working” in general terms?
5. Where did problems occur?
6. What specific modifications would improve our community’s planning process?
7. How can this plan better serve the expressed desires of the public?

It is helpful to evaluate both the planning process (such as ongoing public participation) as well as specific planning products (such as the local government’s subdivision regulations). While evaluation can be ongoing, it is also helpful to set evaluation “benchmarks” based on specific work items. For example, during the preparation of a community growth policy, the draft should be thoroughly evaluated after public comments have been received.

For further assistance on the topic of growth policies, please contact the Montana Department of Commerce Community Technical Assistance Program at (406)444-3757.

Appendix A

Growth Policy Statute (76-1-601, MCA)

Appendix A

Growth Policy Statute (76-1-601, MCA)

76-1-601. Growth policy -- contents. (1) The planning board shall prepare and propose a growth policy for the entire jurisdictional area. The plan may propose ordinances or resolutions for possible adoption by the appropriate governing body.

(2) A growth policy must include:

- (a) community goals and objectives;
- (b) maps and text describing an inventory of the existing characteristics and features of the jurisdictional area, including:
 - (i) land uses;
 - (ii) population;
 - (iii) housing needs;
 - (iv) economic conditions;
 - (v) local services;
 - (vi) public facilities;
 - (vii) natural resources; and
 - (viii) other characteristics and features proposed by the planning board and adopted by the governing bodies;
- (c) projected trends for the life of the growth policy for each of the following elements:
 - (i) land use;
 - (ii) population;
 - (iii) housing needs;
 - (iv) economic conditions;
 - (v) local services;
 - (vi) natural resources; and
 - (vii) other elements proposed by the planning board and adopted by the governing bodies;
- (d) a description of policies, regulations, and other measures to be implemented in order to achieve the goals and objectives established pursuant to subsection (2)(a);
- (e) a strategy for development, maintenance, and replacement of public infrastructure, including drinking water systems, wastewater treatment facilities, sewer systems, solid waste facilities, fire protection facilities, roads, and bridges;
- (f) an implementation strategy that includes:
 - (i) a timetable for implementing the growth policy;
 - (ii) a list of conditions that will lead to a revision of the growth policy; and
 - (iii) a timetable for reviewing the growth policy at least once every 5 years and revising the policy if necessary;
- (g) a statement of how the governing bodies will coordinate and cooperate with other jurisdictions that explains:
 - (i) if a governing body is a city or town, how the governing body will coordinate and cooperate with the county in which the city or town is located on matters related to the growth policy;
 - (ii) if a governing body is a county, how the governing body will coordinate and cooperate

with cities and towns located within the county's boundaries on matters related to the growth policy;

(h) a statement explaining how the governing bodies will:

(i) define the criteria in 76-3-608(3)(a); and

(ii) evaluate and make decisions regarding proposed subdivisions with respect to the criteria in 76-3-608(3)(a); and

(i) a statement explaining how public hearings regarding proposed subdivisions will be conducted.

(3) A growth policy may:

(a) include one or more neighborhood plans. A neighborhood plan must be consistent with the growth policy.

(b) establish minimum criteria defining the jurisdictional area for a neighborhood plan;

(c) address the criteria in 76-3-608(3)(a);

(d) evaluate the effect of subdivision on the criteria in 76-3-608(3)(a);

(e) describe zoning regulations that will be implemented to address the criteria in 76-3-608(3)(a); and

(f) identify geographic areas where the governing body intends to authorize an exemption from review of the criteria in 76-3-608(3)(a) for proposed subdivisions pursuant to 76-3-608.

(4) The planning board may propose and the governing bodies may adopt additional elements of a growth policy in order to fulfill the purpose of this chapter.

Appendix B

Publications Available from the Montana Department of Commerce Community Technical Assistance Program

Appendix B

Publications Available from the Montana Department of Commerce Community Technical Assistance Program

Community Planning

- Growth Policy Resource Book, 2000
- Montana's Annexation and Planning Statutes, 13th Edition, 1999
- The Montana Planning Board Members Handbook, 1998
- A Primer on Land Use Planning and Regulation for Local Governments, 1994
- Montana Land Use Planners Directory, 1995
- A Guide to the County Land Planning Funds, 1999

Local Government Public Works Financing and Capital Improvement Planning

- Grants: Getting Ready and Research Methods, 1985
- How to Write a Grant Proposal: A Modular Approach, 1985
- Multipurpose Foundation Grant Programs for Montana, 1992
- A Guide to Grants for Community Planning and Development Projects in Montana, 1995
- Affordability of Major Wastewater Systems Improvements for Small Montana Communities, 1990
- A Handbook: Capital Facilities Scheduling and Financing, 1995
- The Mini Capital Improvements Plan for Small Towns, 3rd Edition, 1996
- Planning and Financing Community Water and Sewer Systems in Montana, 4th Edition, 1997
- Rural Special Improvement District Handbook, 2nd Edition, 1986
- Special Improvement Districts Handbook, 2nd Edition, 1986

Subdivision Regulations

- A Manual for the Administrator of the Montana Subdivision and Platting Act, 1994, to be reprinted 2001
- A Primer: Subdivision Review Under the Montana Subdivision and Platting Act, 1996
- Evasion Criteria for the Montana Subdivision and Platting Act: An Introduction, 1990
- Montana Model Subdivision Regulations, 1993, Addendum 1995, to be reprinted 2001
- Montana's Subdivision and Surveying Laws and Regulations, 18th Edition, 2000
- A Handbook on Local Land Use Regulation, 1994

Zoning

- Model Municipal Zoning Ordinance, 1995
- Montana Planning & Zoning Digest, 1996
- A Handbook on Local Land Use Regulation, 1994
- Model County Development Permit Use Regulations, 1995

Appendix C

Internet Sites Which Might Be Useful

Appendix C

Internet Sites Which Might Be Useful

- American Planning Association <http://www.planning.org/>
- Montana State Library, Montana Natural Resource Information System (NRIS)
<http://nris.state.mt.us/>
- The Empowerment/Enterprise Communities (EZ/EC) Program, a Presidential Initiative implemented to revitalize distressed communities in the U.S. <http://www.ezec.gov/>
- Geographic Information and Analysis Center <http://sun1.giac.montana.edu/giac.html>
- The International Society of City and Regional Planners
<http://www.soc.titech.ac.jp/isocarp/>
- Mapquest <http://www.mapquest.com/>
- Montana Cadastral Mapping Project <http://gis.doa.state.mt.us>
- Montana Local Government GIS Coalition <http://sun1.giac.montana.edu/mlgge.html>
- Online Planner Forum <http://www.plannersweb.com/>
- Sustainable Communities Network <http://www.sustainable.org>
- The Topologically Integrated Geographic Encoding and Referencing System (TIGER) covers all of the U.S. with basic GIS data, such as roads, rivers, political boundaries, census data, streets, and addresses <http://www.census.gov/ftp/pub/geo/www/tiger>
- The University of California at Berkeley Environmental Design Library - a directory of Internet Planning Resources, and a source for a variety of planning and community indices, books, and organizations <http://www.lib.berkeley.edu/ENVI/cityweb.html>

Appendix D

Possible Definitions For Terms Used In 76-3-608(3)(a), MCA

Appendix D

Possible Definitions For Terms Used In 76-3-608(3)(a), MCA

- **Agriculture:** Montana Code Annotated contains definitions for the words “agriculture” and “agricultural” as follows:
 - **41-2-103, MCA. Definitions.** As used in this part, the following definitions apply:
 - (1) “Agriculture” means: (a) all aspects of farming, including the cultivation and tillage of the soil; (b)(i) dairying; and (ii) the production, cultivation, growing, and harvesting of any agricultural or horticultural commodities, including commodities defined as agricultural commodities in the federal Agricultural Marketing Act (12 U.S.C. 1141j(g)); (c) the raising of livestock, bees, fur-bearing animals, or poultry; and (d) any practices, including forestry or lumbering operations, performed by a farmer or on a farm as an incident to or in conjunction with farming operations, including preparation for market or delivery to storage, to market, or to carriers for transportation to market.
 - **81-8-701, MCA. Definitions.** Unless the context requires otherwise, in this part the following definitions apply: (1) “Agricultural and food product” includes a horticultural, viticultural, dairy, livestock, poultry, bee, other farm or garden product, fish or fishery product, and other foods.
- **Agricultural Water User Facilities:** Those facilities which provide water for agricultural land as defined in 15-7-202, MCA, or which provide water for the production of agricultural products as defined in 15-1-101, MCA including, but not limited to, ditches, pipes, and head gates.
- **Local Services:** Any and all services or facilities that local government entities are authorized to provide.
- **Natural Environment:** The physical conditions which exist within a given area, including land, air, water, mineral, flora, fauna, noise, and objects of historic or aesthetic significance.
- **Wildlife:** Living things which are neither human nor domesticated.
- **Wildlife Habitat:** Place or type of site where wildlife naturally lives and grows.
- **Public Health and Safety:** A condition of optimal well-being, free from danger, risk, or injury for a community at large, or for all people, not merely for the welfare of a specific individual or a small class of persons.



3,000 copies of this public document were published at an estimated cost of \$2.30 per copy, for a total cost of \$6,900.00, which includes \$6,900.00 for printing and \$.00 for distribution.